Calendar No. 955

99TH CONGRESS
2d Session

SENATE

REPORT
99-466

AMENDMENTS TO SECTION 1619 OF THE SOCIAL SECURITY ACT

SEPTEMBER 22 (legislative day, SEPTEMBER 15), 1986.—Ordered to be printed

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Mr. PACKWOOD, from the Committee on Finance, submitted the following

REPORT

[To accompany S. 2209]

The Committee on Finance, to which was referred the bill (S. 2209) to make permanent and improve the provisions of section 1619 of the Social Security Act, which authorizes the continued payment of SSI benefits to individuals who work despite severe medical impairment; to amend such Act to require concurrent notification of eligibility for SSI and Medicaid benefits and notification to certain disabled SSI recipients of their potential eligibility for benefits under such section 1619; to provide for a GAO study of the effects of such section's work incentive provisions, and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

I. SUMMARY

The Committee bill makes permanent and simplifies the special provisions of section 1619 of the Social Security Act which are designed to eliminate work disincentives for individuals who become eligible for supplemental security income by reason of blindness or disability and subsequently attempt to go to work. The bill as reported:

Makes Section 1619 a permanent feature of the law.

Allows beneficiaries of Section 1619 to receive up to 2 months of SSI benefits during temporary periods when they are in public institutions or Medicaid facilities.

Simplifies the transitions among regular SSI status, special benefit status under section 1619(a), and special Medicaid status under section 1619(b). Standards are established as to

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when eligibility determinations must be conducted, and certain non-productive determinations are eliminated.

Modifies the Medicaid status rules to give appropriate consideration to certain extraordinary expenses; to assure that Medicaid is continued in States which do not automatically provide Medicaid to all SSI recipients; and to eliminate the loss of Medicaid in certain circumstances where such loss is caused by the award or increase of childhood disability benefits under title II of the Social Security Act.

Requires that SSI recipients be appropriately informed of the availability of section 1619 benefits.

II. General Description of the Bill

BACKGROUND AND REASON FOR CHANGE

The social security disability program is based on the concept that the benefit provided compensates for the loss of the individual's ability to earn because of his disability. The same concept applies to the supplemental security income (SSI) program, that is, an individual is qualified for cash assistance when his physical or mental condition will not permit him to provide for his basic needs through work effort.

Less severely handicapped individuals with limited ability to work also may receive assistance from a variety of governmental programs at the Federal, State, and local levels, but the Federal Social Security Act programs of disability insurance and supplemental security income were not designed to provide income support for individuals in that category.

While the Congress has found it necessary and important to limit eligibility under these programs to those who are so medically disabled that they cannot work, the Committee recognizes that some individuals determined to meet the Social Security Act definition of disability are nevertheless so motivated towards work and independence that they later manage to work in spite of their impairments.

Such individuals present a difficult dilemma for public policy. Allowing them to continue receiving income maintenance benefits would seem to undermine the fundamental Congressional decision that eligibility be limited to those who cannot work. This policy could lead to a far broader program which would not only be much more costly but would also raise serious policy issues.

On the other hand, terminating benefits in such circumstances can be a powerful disincentive to the work efforts which these severely disabled individuals are otherwise motivated to attempt. This is particularly a problem where supplemental security income eligibility (with its concomitant eligibility for Medicaid) is concerned. By definition, these programs deal with individuals who have limited resources to fall back on should their work attempts fail or prove insufficient to meet their medical and other needs.

In 1980, the Committee proposed and Congress enacted a new temporary program which addresses this dilemma. Entry into this program is limited to those individuals who have severe disabilities and have already been found on the basis of those disabilities to be

unable to work and, therefore, to be eligible for supplemental security income. When such individuals lose their eligibility for regular SSI benefits because they go to work at substantial gainful activity levels, they qualify for a special benefit which is equal in amount to the benefit which would be payable to an individual with the same income who was eligible for regular SSI benefits (that is, to an individual who had the same amount of countable income from a source other than earnings). To qualify for this special benefit, the individual must continue to have the same medical impairment on the basis of which he was originally found eligible and to continue meeting all SSI eligibility factors except for inability to engage in substantial work activity.

In addition, the special program adopted in 1980 allows SSI recipients who lose eligibility for SSI because they go to work to retain eligibility for Medicaid. This applies to those whose work activity indicates that they are no longer disabled and also to those with minimal employment which, when added to their income from sources other than earnings, causes their total income to exceed the SSI eligibility standards. Eligibility for this special Medicaid status is retained until the individual attains a level of earnings sufficiently high that he no longer requires Medicaid. As with the special benefit status, the special Medicaid status is only available to those who continue to have the medical impairment which was the basis for their initial SSI eligibility and who, except for their earnings, continue to meet all other eligibility factors.

Since SSI disability benefits are intended to provide income support for those with severe disabilities that prevent gainful work, it was not anticipated that the special program adopted in 1980 would affect a large proportion of the total SSI disability population. Nevertheless, the program has proven useful in removing disincentives to work for those recipients who are motivated to attempt work efforts despite apparently disabling medical conditions. The Committee believes that it is now appropriate to adopt this special program on a permanent basis.

In addition to making the program permanent, the Committee is making a number of modifications in the program. In general, these modifications are designed to simplify the way in which this special program works on the basis of the experience of the first several years. The changes should be viewed as streamlining the existing program. It is not the Committee's intent to expand the purpose of the program or to depart in any way from the original intent that this special work incentive provision should be viewed as a separate program for those who first have qualified for regular SSI benefits on the basis of their having a severe physical or mental impairment that prevents them from engaging in substantial gainful activity. It is not, and it is not intended to be, a step in the direction of a broader definition of disability for the social security programs. The Committee recognizes that section 1619, in providing benefits or Medicaid eligibility to some people who could no longer qualify as regular SSI applicants (because they have proven their ability to engage in substantial employment), will create some anomalous situations. The Committee believes however that the acceptance of some anomalies is a reasonable price to pay for a program which, without an expansion of the basic SSI program, re-

moves substantial disincentives to work attempts by the most highly motivated disability recipients.

PERMANENT AUTHORIZATION OF SECTION 1619

(Section 2)

Present law.—Section 1619 of the Social Security Act authorizes a demonstration program under which special cash benefits and Medicaid coverage are provided to individuals who lose their eligibility for SSI because they perform substantial gainful activity (SGA) in spite of severe medical impairments. By regulation countable earnings above $300 a month generally are considered to show ability to engage in SGA. Section 1619(a) extends cash and Medicaid coverage to disabled individuals whose earnings preclude eligibility for regular SSI cash benefits. The amount of the cash payment under section 1619(a) is equal to the SSI benefit the individual would have received under the regular SSI program were it not for the SGA eligibility cut-off. An individual receiving cash benefits under 1619(a) is treated as an SSI recipient for Medicaid purposes. Section 1619(a) status is ended when the individual's countable income exceeds the amount which would cause the Federal SSI payment to be reduced to zero (based on the Federal benefit standard for an individual in 1986, the break-even point is $757 a month). Section 1619(b) extends Medicaid coverage to disabled and blind individuals who lose SSI or section 1619(a) benefits because their income, although high enough to cause the loss of cash benefits may not be enough to replace the Medicaid benefits. Blind persons receiving SSI cash payments are, by law, not subject to the SGA test in determining their eligibility. Thus, blind SSI recipients do not need the protection of section 1619(a), but qualify for section 1619(b) protection. Section 1619, originally a 3-year demonstration program effective from January 1, 1981 through December 31, 1983, was enacted as part of P.L. 96-265 in 1980. The section 1619 program was extended through June 30, 1987 by P.L. 98-460 in 1984.

Committee amendment.—The Committee amendment would make section 1619 a permanent provision of law.

ELIGIBILITY OF CERTAIN DISABLED OR BLIND INDIVIDUALS FOR BENEFITS DURING INITIAL TWO MONTHS IN CERTAIN INSTITUTIONS

(Section 3)

Present law.—Aged, blind, or disabled individuals can be institutionalized for many reasons and for varying periods of time. Depending on the type of institution (public or private, medical or non-medical), the length of stay, and whether Medicaid benefits are paid on the individual's behalf, an individual can retain eligibility under the SSI program, lose eligibility, or be subject to a reduced payment standard. Generally, an individual who is an inmate of a public institution throughout any month, cannot be eligible for SSI. However, the law provides that an otherwise eligible individual who is, throughout any month, in a public or private hospital, extended care facility, nursing home, or intermediate care facility,

where a major portion of his care is paid for by the Medicaid program, can be eligible for SSI but is subject to a reduced SSI benefit of $25 a month. Generally no payment is due to an eligible individual who is, throughout any month, an inmate of a public institution.

Committee amendment.—The Committee amendment provides that if an individual has been eligible under the provisions of section 1619(a) or 1619(b) in the month before entering either a public institution whose primary purpose is medical treatment (including mental institutions), or a Medicaid facility, the individual remains eligible for an SSI benefit payment based on the full federal benefit standard for up to 2 months. The additional 2 months of regular SSI payments are intended for the recipient's use in meeting expenses outside the institution (such as maintaining his place of residence). Therefore the institution or facility must agree that the recipient be permitted to retain benefits payable under this section for the provision to apply. This may be, for example, an individual agreement between the institution or facility and

(a) the recipient; or

(b) the local social security office; or

(c) particularly in the case of Medicaid facilities, the State.

The amendment includes a conforming requirement for Medicaid State plans to assure such benefits will be disregarded in determining the recipient's required contribution to the cost of care.

It is not the Committee's intent that individuals who are inmates of a penal institution, even if undergoing medical or psychiatric treatment in a hospital or other facility, will be covered by this provision.

The Committee deleted a bill provision requiring that district Social Security offices of sufficient size designate a 1619 specialist. The Committee urges the Secretary to establish a cadre of specialists from staff within an area of field offices, and from staff of the appropriate Regional Office, if necessary, so that a specialist is available to consult with each field office.

IMPROVEMENTS TO SECTION 1619 PROGRAM

(Section 4)

Present law.—The social security disability insurance program, which generally served as a model for the supplemental security income (SSI) disability program, addresses the problem of work disincentives by providing a nine-month trial work period during which beneficiaries who have not recovered medically can attempt employment without loss of benefits. If an individual is then determined to have regained the capacity for employment, benefits continue for an additional 3 months. Moreover, there is provided also a period during which a disabled individual may be reinstated to benefit status without a medical determination. The period begins after the close of the trial work period and runs for 15 months. These trial work and reinstatement provisions were also incorporated into the SSI program.

Since the 1980 amendments, SSI disability recipients who attempt to work also have had the benefit of the special benefit pro-

visions under section 1619 which have been in force as a temporary demonstration project.

Under subsection (a) of section 1619, an individual who becomes ineligible for SSI solely because he is engaging in substantial gainful activity (but has the same medical impairment on the basis of which he was found disabled) can receive a special benefit—equal to what he would be getting if he had the same income but was still eligible for SSI. Receipt of this special benefit will protect the individual's Medicaid eligibility if he resides in a State whose Medicaid plan uses SSI eligibility rules.

Under subsection (b) of section 1619, an individual who has earnings which increase his income above the SSI income eligibility level (whether or not his earnings are above the substantial gainful activity level) can retain Medicaid eligibility. Medicaid eligibility continues until the individual's income reaches a level where it is determined that his earnings are sufficient to provide an equivalency of the SSI and Medicaid benefits he would have if he were not working.

When an individual moves from SSI to section 1619(a) status, he has been determined to be no longer eligible for SSI. If he stops working (unless the reentitlement period applies) he must reestablish his eligibility under the initial benefit standards. Similarly, an individual who moves from 1619(a) status (special cash benefits) to 1619(b) status (Medicaid eligibility only) cannot move back into 1619(a) without first establishing eligibility to regular SSI benefits.

Committee amendment.—The permanent provisions relating to trial work and reinstatement and the temporary section 1619 provisions interact under current law. Their interaction is complicated and frequently requires the making of some eligibility determinations which are not productive inasmuch as they have no practical impact on the amount of benefits available to an individual. This makes it difficult to explain the effect of earnings to recipients and can cause inappropriate concern for recipients who are found ineligible for regular benefits even though they continue to qualify for special benefits.

Inasmuch as the Committee amendment would make permanent the provisions of section 1619, there appears no longer to be any practical purpose served by the trial work and automatic reentitlement provisions in the SSI program. Consequently, the Committee amendment would eliminate these features from the supplemental security income program. While this, in effect, means that an individual loses SSI eligibility in any month in which he demonstrates the ability to engage in substantial gainful activity, there is no actual loss to the individual since he automatically moves into special benefit status (unless his earnings are high enough to raise his total countable income above the level of eligibility for that status.)

The Committee amendment also recognizes the reality that severely impaired individuals who make work attempts may not be able to follow a steady progression from SSI status, to special benefit status under section 1619(a), to Medicaid only status under section 1619(b), and then to a status of complete independence. In practice, such individuals tend to undergo a more varied experience, often involving some setbacks which would require them to reestablish eligibility for an earlier category of benefits. To accom-

modate this reality, the Committee provides a relatively simple transition, in either direction, among the various categories of benefits. Actual determinations of eligibility are only required in limited and specified circumstances (although the Secretary retains the discretion to review the continuing eligibility of recipients on a periodic basis and whenever there is an indication that there may have been a change in medical condition or other element of eligibility).

Further, the Committee amendment would make explicit in statute the current administrative practice which requires the filing of a new application for SSI only in cases where the individual has been ineligible for a period in excess of 12 consecutive months. While the 15-month automatic reentitlement period is being eliminated by these amendments, a disabled person who becomes ineligible for SSI or 1619 benefits for a period of 12 or fewer months may be reinstated without having to be first determined disabled.

The process under the Committee amendment is expected to operate in this manner:

An individual who has not previously been eligible for benefits under title XVI of the Social Security Act (or has not been so eligible within the past 12 months) must file an application for benefits to establish eligibility. Such an individual must, as under present law, be able to establish that he has a severe physical or mental impairment which prevents him from engaging in substantial gainful activity. The standards and procedures to be applied are those which apply under present law to both the supplemental security income and social security disability insurance program. (In addition he must meet all the nondisability-related requirements of the SSI program.) An individual who cannot establish eligibility on this basis cannot become eligible under the regular SSI program or under the special programs established by section 1619.

If an individual has become eligible on this basis for SSI benefits and then goes to work at an earnings level which exceeds the level ordinarily considered to constitute substantial gainful activity ($300 per month under current regulation), he will not be eligible in any month in which he has such earnings for a regular SSI benefit. However, he will be eligible for a special benefit under section 1619(a) which is exactly equal to the Federal SSI benefit which would be payable in that month on the basis of his actual total countable income.

Since there is no actual practical change in his benefit amount by reason of this special status, no determination with respect to his disability status is required at this point. (To the extent that his earnings represent a change in his total countable income, an income determination may be required as with any other income change.)

While there is no immediate requirement of a disability determination based on the fact that the recipient has begun to engage in substantial work activity, the Committee amendment does require that the individual's medical condition be reviewed within 12 months after he enters the special section 1619 status. The purpose of this review is to determine whether the individal continues to have the disabling physical or mental impairment on the basis of which he was first found eligible. If the individual has medically

recovered, his eligibility for any benefits under title XVI, including section 1619, will be terminated. However, if he has not medically recovered (and still meets the non-disability requirements), he will be eligible for benefits under section 1619 even though he is not longer disabled to the extent of being unable to do significant work.

If an individual in 1619(a) status ceases to have earnings indicative of substantial gainful activity, benefits will be payable under the regular SSI provisions so long as he continues to have the disabling medical condition and to meet non-disability eligibility requirements.

An individual receiving SSI or 1619(a) benefits may earn enough to increase his countable income to the point that he is ineligible for any further cash benefits. Assuming he has not medically recovered, he may be eligible for a special status in which no cash benefits are payable, but he retains Medicaid eligibility. If his income subsequently declines, he may again begin receiving cash benefits under 1619(a) (if he continues to have earnings in excess of the amount ordinarily considered to constitute substantial gainful activity) or under the regular SSI provisions (if he no longer has earnings at that level).

The Committee amendment, thus, departs from current law by allowing an individual to move from 1619(b) status (Medicaid only) back into cash benefit status (1619(a) or regular SSI) without first requiring a medical redetermination of SSI eligibility. However, a prompt review of his continuing medical eligibility is required in such a case if in one or more of the 12 months before he returned to cash benefit status he had earnings at a level which (after applicable disregards) would be sufficient to reduce the Federal benefit amount to zero. A continuing review of medical eligibility is also required for an individual who reestablishes his eligibility for section 1619(b) status within a year of his last eligibility for that status. The requirement similarly applies only to those who in the month of reestablishing eligibility or in one or more of the prior 12 months had earnings which would be sufficient (after disregards) to reduce the Federal benefit to zero.

When a continuing disability review is required for an individual moving from Medicaid only to cash benefit status (or reestablishing eligibility for the Medicaid status), the standard for review will be the medical improvement standard established by the 1984 disability amendments. The threshold question for such a review is whether there has been "any medical improvement in the individual's impairment" (other than an improvement which is unrelated to ability to work).

If there has been no medical improvement (and all non-disability eligibility factors are met), the individual will continue to receive benefits. (The statute spells out certain limited exceptions, for example, in the case of new diagnostic techniques showing that the individual is less disabled than was originally determined.)

If there has been medical improvement, the Social Security Administration will then make a determination as to whether the individual continues to be unable to engage in substantial gainful activity by reason of a severe, medically determinable impairment. If the individual is found no longer disabled under this standard, his benefits will terminate and he will no longer be eligible for any SSI

benefits or any benefits under section 1619 (a) or (b) and cannot reestablish eligibility for any such benefits except on the basis of a new application for initial entitlement.

COUNTABLE EARNINGS AND "EQUIVALENT" BENEFITS

(Also Section 4)

Present law.—The law provides that one of the factors used in determing whether an individual is eligible for Medicaid benefits under section 1619(b) is whether the earnings of the disabled or blind individual are sufficient to provide a "reasonable equivalent" of the SSI and Medicaid benefits for which the person would have been eligible in the absence of such earnings. Separately the law requires the costs of impairment-related work expenses be disregarded in determining whether earnings constitute SGA, and requires impairment-related work expenses plus income needed for approved self-support plans to be disregarded in computing SSI benefit payments.

Committee amendment.—The Committee amendment requires that the value of publicly funded attendant care or personal care services be added to the consideration of whether an individual's earnings provide a "reasonable equivalent" of benefits which the individual otherwise would have been entitled to in the absence of earnings. The amendment also clarifies that federally administered State supplementary payments are to be considered in such a determination and also provides for the exclusion from earnings available to replace these benefits the cost of certain work expenses and the cost of achieving plans for self-support. Finally, the amendment requires that the "reasonable equivalent" of benefits criteria under section 1619(b) be based on information and data that are updated at least once a year.

SECTION 1619 ELIGIBILITY NOTICES

(Section 5)

Present law.—The law requires the Secretary of Health and Human Services to develop and disseminate to applicants for and recipients of SSI information on the potential availability of benefits and services for disabled individuals under section 1619.

Committee amendment.—The Committee amendment requires the Secretary of Health and Human Services to notify any individual receiving SSI on the basis of disability or blindness of his or her potential eligibility under section 1619 at the following times:

At the time of the initial award of eligibility (in the case of an individual 18 or over);

When the individual's earned income first equals or exceeds $200 per month; and periodically thereafter, so long as the individual has earned income of $200 or more a month, regardless of the age of the individual.

SOCIAL SECURITY CHILD'S BENEFITS

(Section 6)

Present law.—Under the Social Security Disability Insurance Program, a disabled person age 18 or over whose disability began before the age of 22, is eligible for a monthly disabled child's benefit if the person is the child or eligible grandchild or great grandchild of a retired, deceased, or disabled worker. Under the SSI program, social security benefits are considered unearned income and all but $20 monthly is subtracted from the SSI payment. For example, in 1986 a disabled person receiving a disabled child's benefit of $120 per month and no other income would receive a Federal SSI payment of $236 per month and would have a total monthly income of $356. A disabled person with a disabled child's benefit of $356 or more a month would not receive an SSI payment.

Committee amendment.—The committee amendment provides for continued Medicaid coverage of those disabled or blind individuals who lose their eligibility for SSI when their income increases solely because they become newly eligible for social security benefits as an "adult disabled child" or because of an increase in their benefits as an adult disabled child. This means that a disabled or blind person who becomes entitled to an adult disabled child's benefit or an increase in such benefit that causes him or her to be no longer eligible for SSI would continue to be eligible for Medicaid benefits on the same basis as other SSI recipients.

SECTION 209(b) STATES

(Section 7)

Present law.—In what are commonly referred to as section 209(b) States, the State determines Medicaid eligibility for aged, blind, or disabled persons using more restrictive criteria than those of the SSI program. The criteria may not be more restrictive than those in effect on January 1, 1972 under the Federal-State adult assistance programs for the aged, blind, and disabled. There are currently 14 209(b) States: Connecticut, Hawaii, Illinois, Indiana, Minnesota, Missouri, Nebraska, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Utah, and Virginia. This means that section 1619 participants in 209(b) States are not automatically entitled to Medicaid coverage. They may be subject to more restrictive Medicaid eligibility requirements either by virtue of the disability eligibility test or the income and resources eligibility criteria.

Committee amendment.—The Committee amendment mandates Medicaid coverage in 209(b) States to those who were eligible for Medicaid, under the more restrictive criteria, at the time they became eligible under section 1619.

EFFECTIVE DATE

(Section 8)

Present law.—Under present law the section 1619 program is scheduled to expire on June 30, 1987.

Committee amendment.—The Committee amendment makes the section 1619 program (section 2 of bill) permanent on enactment and makes the other sections of the bill effective as of July 1, 1987.

III. Regulatory Impact of the Bill

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate the following evaluation is made of the regulatory impact which would be incurred in carrying out the bill.

(A) The bill is not essentially regulatory in nature but simply modifies the requirements for an existing benefit program. The particular provisions dealt with by this bill are expected to directly affect a small percentage of the approximately 4 million recipients of supplemental security income.

(B) By eliminating disincentives to employment, the bill could have a significant personal economic impact on those disabled individuals affected, but the overall economic impact on consumers and businesses would be negligible.

(C) The bill should have no impact on personal privacy.

(D) To the extent that the bill mainly serves to streamline the processes for the existing program, there may be a minor reduction in the paperwork associated with operating the supplemental security income program.

IV. Vote of the Committee in Reporting the Bill

In compliance with paragraph 7 of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote by the Committee to report the bill.

The bill was ordered reported by a voice vote.

V. Budgetary Impact of the Bill

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the costs and budgetary impacts of the bill.

The Committee adopts the estimates incorporated in the CBO analysis of the bill as shown below:

U.S. Congress,
Congressional Budget Office,
Washington, DC, September 18, 1986.

Hon. Bob Packwood,
Chairman, Senate Committee on Finance,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 2209, the Employment Opportunities for Disabled Americans Act.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

Rudolph G. Penner, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2209.

2. Bill title: Employment Opportunities for Disabled Americans Act.

3. Bill status: As ordered reported by the Senate Committee on Finance on September 10, 1986.

4. Bill purpose: To make permanent and improve the provisions of section 1619 of the Social Security Act, and for other purposes.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1986	1987	1988	1989	1990
Required budget authority	−2	−7	−3	(1)	1
Estimated outlays	−2	−7	−3	(1)	1

[1] Less than $500,000.

Note: The effects of this bill would fall within budget functions 550 and 600.

Basis of Estimate: Estimates for each of the seven sections of the bill are shown in the table below. The effective date for the provisions is July 1, 1987, with the exception of making section 1619 permanent which is effective upon enactment.

ESTIMATED FEDERAL OUTLAYS BY SECTION

[By fiscal years, in millions of dollars]

	1987	1988	1989	1990	1991
Section 2:					
Make permanent sections 1619 a and b:					
SSI	−3	−14	−16	−17	−19
Medicaid	1	4	5	5	5
Subtotal	−2	−10	−11	−12	−14
Section 3:					
Increase SSI benefits to 1619 a and b eligibles when institutionalized	(1)	(1)	(1)	(1)	(1)
Section 4:					
Repeal trial work period, extended period of eligibility, and other changes for 1619 participants:					
SSI	(1)	(1)	(1)	(1)	(1)
Medicaid	(1)	(1)	1	2	3
Subtotal	(1)	(1)	1	2	3
Section 5:					
Notify SSI eligibles of 1619 provisions	(1)	(1)	(1)	(1)	(1)
Section 6:					
Provide Medicaid to adult kids who move from SSI to DI: Medicaid	(1)	3	7	10	12
Section 7:					
Provide Medicaid to 1619 recipients who live in 209b States:					
Medicaid	(1)	(1)	(1)	(1)	(1)
Total all sections:					
SSI	−3	−14	−16	−17	−19
Medicaid	1	7	13	17	20
Total outlays	−2	−7	−3	(1)	1

[1] Less than $500,000.

Section 2 of S. 2209 permanently authorizes Section 1619 of the Social Security Act, which was due to expire on July 1, 1987. The 1619 provisions permit disabled persons who work to retain SSI and/or Medicaid benefits in certain circumstances when their earnings would otherwise have made them ineligible. The CBO estimate shows savings in SSI but costs in Medicaid. These estimates are based on a July 1986 study of Section 1619 by the Social Security Administration. The study found that an estimated 20 to 30 percent of 1619 participants would reduce their work activity in the absence of the 1619 protections. Section 1619 thus encourages some disabled participants to increase their earnings, which in turn reduced SSI.

Section 3 allows Section 1619 participants to receive up to two months of SSI benefits when they are institutionalized. Currently, the institutionalized receive only $25 a month from SSI. Because there are only about 10,000 participants in a month, and only a small fraction are institutionalized, costs of this provision would be negligible.

A number of changes affecting 1619 participants are made by Section 4, including repeal of the trial work period and the extended period of eligibility, the setting of standards for eligibility determinations, and broadening of the Medicaid eligibility rules to include certain extraordinary expenses. The effect on SSI is estimated to be negligible while there would be a small estimated cost in Medicaid beginning in 1989.

Section 5 requires that disabled persons be notified of the 1619 provisions at the time of their award of benefits and when their countable earned income is $200 or more a month. Costs are estimated to be negligible.

Under Section 6, when a disabled adult child (an adult who was a disabled child) ceases to be eligible for SSI because of the receipt of OASDI benefits, the child's Medicaid benefits are continued. An estimated 5000 children every year incur such a change in status. An estimated one-third would have received Medicaid anyway. Medicaid costs are estimated to rise from a negligible amount in 1987 to $12 million in 1991, based on federal Medicaid costs per child of about $1330 in 1987 and $1610 in 1991.

Section 7 requires that certain states ("209b" states) who set their own Medicaid eligibility standards provide Medicaid to 1619 participants. The cost is estimated to be negligible.

6. Estimated cost to State and local governments:

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
SSI	(1)	−1	−2	−2	−2
Medicaid	(1)	3	6	8	9
Total estimated state and local outlays	(1)	2	4	6	7

[1] Less than $500,000.

The bill amendments would also affect state and local government budgets. Most states supplement the federal SSI benefit, so that their budgets are affected when the Congress enacts changes in SSI benefits. Permanent authorization of section 1619 would

result in small state and local savings of $1 million to $2 million a year.

States share in the financing of Medicaid, accounting for 55 percent of program outlays on average. Their share of the Medicaid costs from the bills' various sections would rise from a negligible amount in 1987 to a estimated $9 million in 1991.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Janice Peskin.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

VI. Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Excerpt from Social Security Disability Amendments of 1980

Sec. 201. (d) The amendments made by subsections (a) and (b) shall become effective on January 1, 1981[, but shall remain in effect only through June 30, 1987].

Excerpts from the Social Security Act

Sec. 1611. (e)(1)(A) Except as provided in subparagraphs (B), (C), *(D)* and [(D)] *(E)*, no person shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if throughout such month he is an inmate of a public institution.

(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month, in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, the benefit under this title for such individual for such month shall be payable *(subject to subparagraph (E))*—

(i) at a rate not in excess of $300 per year * * *

* * * * * * *

(E) Notwithstanding subparagraphs (A) and (B), any individual who—

(i)(I) is an inmate of a public institution, the primary purpose of which is the provision of medical or psychiatric care, throughout any month as described in subparagraph (A), or

(II) is in a hospital, extended care facility, nursing home, or intermediate care facility throughout any month as described in subparagraph (B),

(ii) was eligible under section 1619 (a) or (b) for the month preceding such month, and

(iii) under an agreement of the public institution or the hospital, extended care facility, nursing home, or intermediate care facility is permitted to retain any benefit payable by reason of this subparagraph,

may be an eligible individual or eligible spouse for purposes of this title (and entitled to a benefit determined on the basis of the rate applicable under subsection (b)) for the month referred to in subclause (I) or (II) of clause (i) and, if such subclause still applies, for the succeeding month.

(F) An individual who is an eligible individual or an eligible spouse for a month by reason of subparagraph (E) shall not be treated as being eligible under section 1619 (a) or (b) for such month for purposes of clause (ii) of such subparagraph.

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SEC. 1614. (a)(3)(A) * * *

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(D) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived form services demonstrate an individual's ability to engage in substantial gainful activity. In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe. Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria [, except for purposes of subparagraph (F) or paragraph (4),] shall be found not to be disabled.

(E) Notwithstanding the provisions of subparagraphs (A) through (D), an individual shall also be considered to be disabled for purposes of this title if he is permanently and totally disabled as defined under a State plan approved under title XIV or XVI as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973 (and for at least one month prior to July 1973), so long as he is continuously disabled as so defined.

[(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1611(e)(4), nonetheless be considered (except for purposes of section 1631(a)(5)) to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which

such individual engages in or is determined to be able to engage in substantial gainful activity.]

[(G)] *(F)* In determining whether an individual's physical or mental impairment or impairments are of a sufficient medical severity that such impairment or impairments could be the basis of eligibility under this section, the Secretary shall consider the combined effect of all of the individual's impairments without regard to whether any such impairment, if considered separately, would be of such severity. If the Secretary does find a medically severe combination of impairments, the combined impact of the impairments shall ber considered throughout the disability determination process.

[(H)] *(G)* In making determinations with respect to disability under this title, the provisions of sections 221(h), 221(k), and 223(d)(5) shall apply in the same manner as they apply to determinations of disability under title II.

[(4)(A) For purposes of this title, any services rendered during a period of trial work (as defined in subparagraph (B)) by an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection) shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. As used in this paragraph, the term "services" means activity which is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

[(B) The term "period of trial work", with respect to an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection), means a period of months beginning and ending as provided in subparagraphs (C) and (D).

[(C) A period of trial work for any individual shall begin with the month in which he becomes eligible for benefits under this title on the basis of his disability; but no such period may begin for an individual who is eligible for benefits under this title on the basis of a disability if he has had a previous period of trial work while eligible for benefits on the basis of the same disability.

[(D) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

[(i) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

[(ii) the month in which his disability (as determined under paragraph (3) of this subsection) ceases (as determined after the application of subparagraph (A) of this paragraph).]

[(5)] *(4)* A recipient of benefits based on disability under this title may be determined not to be entitled to such benefits on the basis of a finding that the physical or mental impairment on the basis of which such benefits are provided has ceased, does not exist, or is not disabling only if such finding is supported by—

(A) substantial evidence which demonstrates that—

(i) there has been any medical improvement in the individual's impairment or combination of impairments (other

than medical improvement which is not related to the individual's ability to work), and

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[(4) No benefit shall be payable under this title, except as provided in section 1619 (or section 1616(c)(3)), with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month, after the third month, in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).]

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Application and Review Requirements for Certain Individuals

(i) For application and review requirements affecting the eligibility of certain individuals, see section 1631(j).

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SEC. 1619. (a)*(1) Except as provided in section 1631 (j), any* [Any] individual who [is] *was determined to be* an eligible individual (or eligible spouse) by reason of being under a disability and was eligible to receive benefits under section 1611[(b) or under this section for the month preceding the month for which eligibility for benefits under this section is now being determined, and who would otherwise be denied benefits by reason of section 1611(e)(4) or ceases to be an eligible individual (or eligible spouse) because his earnings have demonstrated a capacity to engage in] *(or a federally administered State supplementary payment) for a month and whose earnings in a subsequent month exceed the amount designated by the Secretary ordinarily to represent* substantial gainful activity, shall [nevertheless] qualify for a monthly benefit *under this subsection for such subsequent month (which shall be in lieu of any benefit under section 1611)* equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of title XIX [of this Act] shall be considered *to be* [a disabled individual] receiving supplemental security income benefits under this title, for so long as [the Secretary determines that]—

[(1)] *(A)* such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability[, and continues to meet all non-disability-related requirements for eligibility for benefits under this title]; and

[(2)] *(B)* the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611[(b) (if he were otherwise eligible for such payments)] *and such individual meets all other non-disability-related requirements for eligibility for benefits under this title.*

(2) The Secretary shall make a determination under paragraph (1)(A) with respect to an individual not later than 12 months after

the first month for which the individual qualifies for a benefit under this subsection.

(b)*(1) Except as provided in section 1631 (j), for* [For] purposes of title XIX, any individual under age 65 who[, for the month preceding the first month in the period to which this subsection applies, received—

[(i) a payment of supplemental security income benefits under section 1611(b) on the basis of blindness or disability,

[(ii) a supplementary payment under section 1616 of this Act or under section 212 of Public Law 93–66 on such basis,

[(iii) a payment of monthly benefits under subsection (a), or

[(iv) a supplementary payment under section 1616(c)(3),]

was determined to be a blind or disabled individual eligible to receive a benefit under section 1611 or any federally administered State supplementary payment for a month and who in a subsequent month is ineligible for benefits under this title (and for any federally administered State supplementary payments) because of his or her income shall, *nevertheless,* be considered to be [a blind or disabled individual] receiving supplemental security income benefits for [so long as] *such subsequent month provided that* the Secretary determines under regulations that—

[(1)] *(A)* such individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which such he was found to be under a disability and, except for his earnings, [continues to meet] *meets* all non-disability-related requirements for eligibility for benefits under this title;

[(2)] *(B)* the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under 1611(b) (if he were otherwise eligible for such payments);

[(3)] *(C)* the termination of eligibility for benefits under title XIX would seriously inhibit his ability to continue his employment; and

[(4)] *(D)* such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits under this title [and] *(including any federally administered State supplementary payments), benefits under* title XIX, *and publicly funded attendant care services (including personal care assistance),* which would be available to him the absence of such earnings.

(2)(A) Determinations made under paragraph (1)(D) shall be based on information and data updated no less frequently than annually.

(B) In determining an individual's earnings for purposes of paragraph (1)(D), there shall be excluded from such earnings an amount equal to the sum of any amounts which are or would be excluded under clauses (ii) and (iv) of section 1612(b)(4)(B) (or under clauses (ii) and (iii) of section 1612(b)(4)(A)) in determining his or her income.

(3) In the case of a State that exercises the option under section 1902(f), any individual who—

(A)(i) qualifies for a benefit under subsection (a), or

(ii) meets the requirements of paragaph (1); and

(B) was eligible for medical assistance under the State plan approved under title XIX in the month immediately preceding the first month in which the individual qualified for a benefit under such subsection or met such requirements

shall remain eligible for medical assistance under such plan for so long as the individual qualifies for a benefit under such subsection or meets such requirements.

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SEC. 1631. (a) * * *

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Applications and Furnishing of Information

(e)(1)(A) The Secretary shall, subject to subparagraph (B), *and subsection (j)* prescribe such requirements with respect to the filing of applications, the suspension or termination of assistance, the furnishing of other data and material, as may be necessary for the effective and efficient administration of this title.

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Application and Review Requirements for Certain Individuals

(j)(1) Notwithstanding any provision of section 1611 or 1619, any individual who—

(A) was an eligible individual (or eligible spouse) under section 1611 or was eligible for benefits under or pursuant to section 1619, and

(B) who, after such eligibility, is ineligible for benefits under or pursuant to both such sections for a period of 12 consecutive months,

may not thereafter become eligible for benefits under or pursuant to either such section until the individual has reapplied for benefits under section 1611 and been determined to be eligible for benefits under such section.

(2)(A) Notwithstanding any provision of section 1611 or section 1619, any individual who was eligible for benefits pursuant to section 1619(b), and who—

(i)(I) on the basis of the same impairment on which his or her eligibility under such section 1619(b) was based becomes eligible for benefits under section 1611 or 1619(a) for a month that follows a period during which the individual was ineligible for benefits under sections 1611 and 1619(a), and

(II) has earned income (other than income excluded pursuant to section 1612(b)) for any month in the 12-month period preceding such month that is equal to or in excess of the amount that would cause him or her to be ineligible for payments under section 1611(b) for that month (if he or she were otherwise eligible for such payments); or

(ii)(I) on the basis of the same impairment on which his or her eligibility under such section 1619(b) was based becomes eligible under section 1619(b) for a month that follows a period during which the individual was ineligible under section 1611 and section 1619, and

(II) has earned income (other than income excluded pursuant to section 1612(b)) for such month or for any month in the 12-month period preceding such month that is equal to or in excess of the amount that would cause him or her to be ineligible for payments under section 1611(b) for that month (if he or she were otherwise eligible for such payments);

shall, upon becoming eligible (as described in clause (i)(I) or (ii)(I)), be subject to a prompt review of the type described in section 1614(a)(4).

(B) If the Secretary determines pursuant to a review required by subparagraph (A) that the impairment upon which the eligibility of an individual is based has ceased, does not exist, or is not disabling, such individual may not thereafter become eligible for a benefit under or pursuant to section 1611 or section 1619 until the individual has reapplied for benefits under section 1611 and been determined to be eligible for benefits under such section.

Notifications to Applicants and Recipients

(k) The Secretary shall notify an individual receiving benefits under section 1611 on the basis of disability or blindness of his or her potential eligibility for benefits under or pursuant to section 1619—

(1) at the time of the initial award of benefits to the individual under section 1611 (if the individual has attained the age of 18 at the time of such initial award), and

(2) at the earliest time after an initial award of benefits to an individual under section 1611 that the individual's earned income for a month (other than income excluded pursuant to section 1612(b)) is $200 or more, and periodically thereafter so long as such individual has earned income (other than income so excluded) of $200 or more per month.

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SEC. 1634. (a) * * *

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(c) If any individual who has attained the age of 18 and is receiving benefits under this title on the basis of blindness or a disability which began before he or she attained the age of 22—

(1) becomes entitled, on or after the effective date of this subsection, to child's insurance benefits which are payable under section 202(d) on the basis of such disability or to an increase in the amount of the child's insurance benefits which are so payable, and

(2) ceases to be eligible for benefits under this title because of such child's insurance benefits or because of the increase in such child's insurance benefits,

such individual shall be treated for purposes of title XIX as receiving benefits under this title so long as he or she would be eligible for benefits under this title in the absence of such child's insurance benefits or such increase.

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SEC. 1902. (a) * * *

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(f) Notwithstanding any other provision of this title, except as provided in subsection (e) *and section 1619(b)(3)* no State not eligible to participate in the State plan program established under title XVI shall be required to provide medical assistance to any aged, blind, or disabled individual (within the meaning of title XVI) for any month unless such State would be (or would have been) required to provide medical assistance to such individual for such month had its plan for medical assistance approved under this title and in effect on January 1, 1972, been in effect in such month, except that for this purpose any such individual shall be deemed eligible for medical assistance under such State plan if (in addition to meeting such other requirements as are or may be imposed under the State plan) the income of any such individual as determined in accordance with section 1903(f) (after deducting any supplemental security income payment and State supplementary payment made with respect to such individual, and incurred expenses for medical care as recognized under State law) is not in excess of the standard for medical assistance established under the State plan as in effect on January 1, 1972. In States which provide medical assistance to individuals pursuant to paragraph (10)(C) of subsection (a) of this section, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under paragraph (10)(A) of that subsection if that individual is, or is eligible to be (1) an individual with respect to whom there is payable a State supplementary payment on the basis of which similarly situated individuals are eligible to receive medical assistance equal in amount, duration, and scope to that provided to individuals eligible under paragraph (10)(A), or (2) an eligible individual or eligible spouse, as defined in title XVI, with respect to whom supplemental security income benefits are payable; otherwise that individual shall be considered to be an individual eligible for medical assistance under paragraph (10)(C) of that subsection. In States which do not provide medical assistance to individuals pursuant to paragraph (10)(C) of that subsection, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under paragraph (10)(A) of that subsection.

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(1) Notwithstanding any provision of subsection (a) to the contrary, a State plan under this title shall provide that any supplemental security income benefits paid by reason of section 1611(e)(1)(E) to an individual who—

(1) is eligible for medical assistance under the plan, and

(2) is in a hospital, skilled nursing facility, or intermediate care facility at the time such benefits are paid,

will be disregarded for purposes of determining the amount of any post-eligibility contribution by the individual to the cost of the care

and services provided by the hospital, skilled nursing facility, or intermediate care facility.

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REFERENCES TO LAWS DIRECTLY AFFECTING MEDICAID PROGRAM

SEC. 1920. (a) AUTHORITY OR REQUIREMENTS TO COVER ADDITIONAL INDIVIDUALS.—For provisions of law which make additional individuals eligible for medical assistance under this title, see the following:

(1) AFDC.—(A) Section 402(a)(37) of this Act (relating to individuals who lose AFDC eligibility due to increased earnings).

(B) Section 406(h) of this Act (relating to individuals who lose AFDC eligibility due to increased collection of child or spousal support).

(C) Section 414(g) of this Act (relating to certain individuals participating in work supplementation programs).

(2) SSI.—*(A)* Section 1619 of this Act (relating to benefits for individuals who perform substantial gainful activity despite severe medical impairment).

(B) Section 1634 of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to child's insurance benefits under section 202(d) of this Act).

(3) FOSTER CARE AND ADOPTION ASSISTANCE.—Section 473(b) of this Act (relating to medical assistance for children in foster care and for adopted children).

(4) REFUGEE ASSISTANCE.—Section 412(e)(5) of the Immigration and Nationality Act (relating to medical assistance for certain refugees).

(5) MISCELLANEOUS.—(A) Section 230 of Public Law 93–66 (relating to deeming eligible for medical assistance certain essential persons).

(B) Section 231 of Public Law 93–66 (relating to deeming eligible for medical assistance certain persons in medical institutions).

(C) Section 232 of Public Law 93–66 (relating to deeming eligible for medical assistance certain blind and disabled medically indigent persons).

(D) Section 13(c) of Public Law 93–233 (relating to deeming eligible for medical assistance certain individuals receiving mandatory State supplementary payments).

(E) Section 503 of Public Law 94–566 (relating to deeming eligible for medical assistance certain individuals who would be eligible for supplemental security income benefits but for cost-of-living increases in social security benefits).

(F) Section 310(b)(1) of Public Law 96–272 (relating to continuing medicaid eligibility for certain recipients of Veterans' Administration pensions).

(b) ADDITIONAL STATE PLAN REQUIREMENTS.—For other provisions of law that establish additional requirements for State plans to be approved under this title, see the following:

(1) Section 1618 of this Act (relating to requirement for operation of certain State supplementation programs).

(2) Section 212(a) of Public Law 93–66 (relating to requiring mandatory minimum State supplementation of SSI benefits program).

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